



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

April 26, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

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SACRAMENTO UPDATE - SINGLE-USE PLASTIC BAGS LEGISLATION

Executive Summary

This memorandum contains reports on legislation related to single-use plastic bags including:

- **Pursuit of County Positions on Legislation**

- **AB 158 (Levine).** This measure would prohibit a store from providing a single-use plastic bag to a customer and would require stores to make reusable grocery bags, recyclable paper bags, or compostable bags available for purchase.
- **SB 405 (Padilla).** This measure would phase out single-use plastic bags in California grocery stores, convenience stores, liquor stores, and pharmacies by prohibiting a store from providing a single-use carryout bag to a customer at the point-of-sale. The bill would also authorize stores to make reusable grocery bags, recyclable paper bags, or compostable bags available for purchase.

Unless otherwise directed by the Board, consistent with existing policy to support legislation which reduces the environmental impacts of single-use carryout bags and decreases the financial burden on local governments to address those impacts, including legislation which seeks to promote the use of reusable bags, reduce the use of plastic or paper carryout bags, and/or

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increase at-store recycling of carryout bags, **the Sacramento advocates will support AB 158 and SB 405 if amended to: 1) establish specific minimum Statewide standards; and 2) add a specific provision in each bill stating that local government ordinances that have already been enacted and which prescribe more stringent policies concerning bags would not be preempted and would remain in effect.**

- **Legislation of County Interest.** This office is also analyzing the provisions of two other single-use carryout bag bills that have been introduced in the Legislature, including:
 - **AB 1337 (Allen)** - related to prohibiting a city, county, or other public agency from adopting an ordinance or resolution that prohibits a retail establishment from offering to its customers a single-use plastic carryout bag for purposes of containing meat, poultry, fruits, vegetables, household chemical products, or food or products intended for consumption or use by domestic pets.
 - **SB 700 (Wolk)** - related to funding for a new program at the city or county level to support litter clean-up and local park and recreation-related activities.

Pursuit of County Position on Legislation

AB 158 (Levine), as amended on April 9, 2013, would: 1) as of January 1, 2015, prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer; 2) require these stores to meet other specified requirements regarding the provisions of recycled paper bags, compostable bags, or reusable bags to customers; 3) require these stores to make reusable grocery bags available to customers; 4) on and after January 1, 2016, impose these prohibitions and requirements on convenience food stores, foodmarts, and other specified stores; 5) beginning January 1, 2016, require reusable grocery bags that are sold or provided to a store by a reusable grocery bag producer to meet specified requirements; 6) require the California Department of Resources Recycling and Recovery (DRRR) to deposit the certification fees and penalties into the Reusable Bag Account, which would then be used to implement the certification requirements; 7) require DRRR, by January 1, 2017, to submit a report to the Legislature regarding the implementation of the bill's provisions; 8) allow a city, county, or city and county, or the State to impose civil penalties for a violation of the bill's requirements, except for the certification requirements; and 9) require these civil penalties to be paid to the office of the city

attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, and would allow the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the bill's provisions.

SB 405 (Padilla), which as amended on April 2, 2013, would: 1) as of January 1, 2015, prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer; 2) require these stores to meet other specified requirements regarding the provisions of recycled paper bags, compostable bags, or reusable grocery bags to customers; 3) on and after January 1, 2016, impose these prohibitions and requirements on convenience food stores, foodmarts, and certain other specified stores; 4) require a reusable grocery bag that a store is required to sell on and after July 1, 2016, to meet specified requirements; 5) require DRRR, by January 1, 2017, to submit a report to the Legislature regarding the implementation of the bill's provisions; and 6) allow a city, county, or city and county, or the State to impose civil penalties for a violation of the bill's requirements, except for the certification requirements. The bill would require these civil penalties to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, and would allow the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the bill's provisions.

AB 158 and SB 405 are substantially similar except for the date by which reusable grocery bags provided by a reusable grocery bag producer must meet the specified requirements (January 1, 2016 and July 1, 2016, respectively).

Existing law, until January 1, 2020, requires an operator of a store, as defined, to establish an at-store recycling program that provides customers the opportunity to return clean plastic carryout bags to that store. Additionally, approximately 70 local governments throughout the State have adopted ordinances banning plastic bags, including the County. The County's ordinance bans single-use plastic carryout bags at stores in the County's unincorporated areas, while requiring they charge 10 cents for each paper carryout bag sold to a customer. The 10-cent charge on paper bags is not subject to State sales tax and is to be retained by stores for use in complying with the ordinance.

The Department of Public Works (DPW) reports that both AB 158 and SB 405 would enact into statute the provisions of dozens of single-use plastic bag bans that are currently in place throughout the State, including the Single Use Bag Reduction Ordinance adopted by the County in November 2010. Specifically, AB 158 and SB 405 would phase out single-use plastic carryout bags at supermarkets, pharmacies, and

other food-related retailers similar in definition to those identified by the County, while also requiring those stores to make reusable bags available to consumers and to place a charge on paper bags, if they are provided to customers. The bills would also establish a State-wide standard for reusable bags which is very similar to the standard established by the County.

The Department of Public Works indicates that, if enacted, AB 158 and SB 405 would further assist local governments to reduce the amount of plastic carryout bags that are disposed or littered, thereby reducing blight and other environmental impacts associated with such litter and improving the quality of life of County residents. Additionally, these bills would help mitigate the costs of compliance with the Federal Clean Water Act. DPW estimates that enactment of either of these bills would save the County approximately \$1.0 million annually in cleanup and prevention efforts.

The Department of Public Works indicates that AB 158 and SB 405 may preempt local ordinances which have enacted stricter bag policies, such as the County's ordinance. DPW recommends support for AB 158 and SB 405 with a request to amend the bills to add a provision that states local government ordinances that have already been enacted and which prescribe more stringent policies concerning bags would not be preempted and would remain in effect.

Support for both bills is consistent with existing Board-approved policy to support legislation which reduces the environmental impacts of single-use carryout bags and decreases the financial burden on local governments to address those impacts. It is also consistent with **County-supported AB 298 (Brownley) of 2012**, which was substantially similar to both AB 158 and SB 405 and generally would have prohibited retail stores from providing single-use plastic bags to customers and would have required retailers to make reusable grocery bags available for purchase by customers. AB 298 failed passage in the Senate Appropriations Committee.

This office and the Department of Public Works support AB 158 and SB 405. Therefore, unless otherwise directed by the Board, consistent with existing policy to support legislation which reduces the environmental impacts of single-use carryout bags and decreases the financial burden on local governments to address those impacts, including legislation which seeks to promote the use of reusable bags, reduce the use of plastic or paper carryout bags, and/or increase at-store recycling of carryout bags, **the Sacramento advocates will support AB 158 and SB 405 if amended to: 1) establish specific minimum Statewide standards; and 2) add a specific provision in each bill stating that local government ordinances that have already been enacted and which prescribe more stringent policies concerning bags would not be preempted and would remain in effect.**

AB 158 is supported by: American Federation of State, County and Municipal Employees; AFL-CIO; Californians Against Waste; California Coastal Coalition; California Coastkeeper Alliance; City and County of San Francisco; Heal the Bay; Long Beach Coalition for a Safe Environment; Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force; Natural Resources Defense Council; and Sierra Club California, among others. The bill is opposed by: The American Forest & Paper Association; Association of California Cities; and Orange County.

AB 158 passed the Assembly Natural Resources Committee by a vote of 6 to 3 on April 1, 2013. The measure has been referred to the Assembly Appropriations Committee.

SB 405 is supported by: California Coastkeeper Alliance, Californians Against Waste; City of San Francisco; County of San Francisco; Heal the Bay; Marin County Hazardous & Solid Waste Management Joint Power Authority; Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force; Natural Resources Defense Council; and Sierra Club, among others. The bill is opposed by: Advance Polybag, Inc.; American Forest and Paper Association; Bell Gardens Chamber of Commerce; Crown Policy, Inc.; Elkay Plastics Co., Inc.; Hilex Poly Co.; Mendocino Solid Waste Management Authority; Southgate Chamber of Commerce; and U.S. Black Chamber, Inc., among others.

SB 405 passed the Senate Committee on Environmental Quality by a vote of 5 to 3 on April 17, 2013. The bill is scheduled for hearing in the Senate Appropriations Committee on April 29, 2013.

Legislation of County Interest

This office is also monitoring and analyzing the provisions of two other single-use carryout bag bills that have been introduced in the Legislature.

AB 1337 (Allen), which as amended on March 21, 2013, would prohibit a city, county, or other public agency from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule that prohibits a retail establishment from offering to its customers, or otherwise prohibits a person from using, a single-use plastic carryout bag for purposes of containing meat, poultry, fruits, vegetables, household chemical products, or food or products intended for consumption or use by domestic pets. The bill would also prohibit a city, county, or other public agency that otherwise prohibits the distribution of single-use plastic carryout bags by retail establishments from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule that imposes a

Each Supervisor
April 26, 2013
Page 6

fee, tax, or other charge upon a retail establishment that provides a single-use carryout bag that is not made of plastic to its customers or that requires the retail establishment to collect a fee, tax, or other charge from a customer for providing that type of single-use carryout bag.

AB 1337 has been referred to the Assembly Natural Resources Committee and was scheduled to be heard on April 8, 2013. The hearing was cancelled at the author's request. A new hearing date has not been set.

SB 700 (Wolk), which as amended on April 15, 2013, would provide funding for a new program at the city or county level to support litter clean-up and local park and recreation-related activities. Revenue for the program would be generated by a new \$0.05 charge assessed on consumers at the point-of-sale for any needed single-use carryout bags. Because SB 700 imposes a fee, it would require a 2/3 vote to pass the Legislature. This bill does not preempt local governments from adopting their own ordinances related to single-use carryout bags. Instead, local governments could opt out of the tax program, and subsequent revenue, with a vote by their city council or board of supervisors, with the caveat that those local jurisdictions that choose to do so are ineligible for grants pursuant to this act. SB 700 has a provision stating that it would not take effect if **SB 405 (Padilla)** amends state law to prohibit the provision of single-use carryout bags to a customer at a point of sale, and that bill is enacted and becomes operative on or before January 1, 2014.

SB 700 passed the Senate Committee on Natural Resource and Water by vote of 6 to 2 on April 9, 2013. The measure is scheduled to be heard the Senate Committee on Environmental Quality on May 1, 2013.

We will continue to keep you advised.

WTF:RA
MR:KA:AO:ma

c: All Department Heads
Legislative Strategist